

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

TASHA RATHBUN, individually and as  
Personal Representative of the Estate of  
Scarlett Rose Elmore,

Plaintiff,

v.

No. CV 22-53 RB/CG

DARLA BANNISTER, RN, et al.,

Defendants.

**ORDER APPOINTING PERSONAL REPRESENTATIVE**

**THIS MATTER** is before the Court upon Plaintiff Tasha Rathbun's *Petition for Appointment of Tasha Rathbun as Personal Representative for Purposes of the Estate of Scarlett Rose Elmore* (the "Petition"), (Doc. 24), filed March 27, 2022; County Defendants' *Response in Opposition to Plaintiff's Petition for Appointment of Tasha Rathbun as Personal Representative for Purposes of the Estate of Scarlett Rose Elmore*, (Doc. 27), filed April 11, 2022; Defendant Darla Bannister's *Response in Opposition to Plaintiff's Petition for Appointment of Tasha Rathbun as Personal Representative for Purposes of the Estate of Scarlett Rose Elmore*, (Doc. 30), filed April 18, 2022; Plaintiff's *Reply in Support of Plaintiff's Petition for Appointment of Tasha Rathbun as Personal Representative for the Purpose of the Estate of Scarlett Rose Elmore*, (Doc. 31), filed April 20, 2022; Plaintiff's *Notice of Completion of Briefing for Petition for Appointment of Tasha Rathbun as Personal Representative for the Purpose of the Estate of Scarlett Rose Elmore*, (Doc. 32), filed April 20, 2022; and the telephonic hearing held on May 11, 2022. The Court, having considered the parties' briefing, the relevant law, and the parties' oral arguments, finds for the reasons stated at the hearing

that the Motion shall be **GRANTED**.

**IT IS THEREFORE ORDERED** that Plaintiff Tasha Rathbun shall be **APPOINTED** as the Personal Representative of the Estate of Scarlett Rose Elmore as contemplated by the New Mexico Wrongful Death Act, NMSA 1978, §§ 41-2-1 through 41-2-4.

**IT IS FURTHER ORDERED** that Defendants may challenge Plaintiff Tasha Rathbun's appointment as the Personal Representative at a later date if they believe there is a sufficient evidentiary basis for the Court to find she is not qualified to serve as the Personal Representative as contemplated by the Wrongful Death Act.

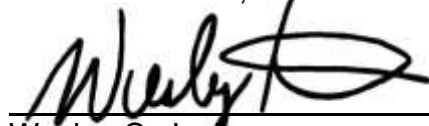
**IT IS SO ORDERED.**



THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE

Form of Order submitted by<sup>1</sup>:

JACKSON LAW, LLC



Wesley C. Jackson  
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<sup>1</sup> Plaintiff's counsel, Mr. Jackson and Mr. Smith, approve this Order insofar as it grants the Petition to appoint Tasha Rathbun the Personal Representative of the Estate of Scarlett Rose Elmore, but approve the Order only as to form insofar as it contemplates that Defendants may challenge her appointment in the future.

And by:

GARRETT & SMITH LAW

/s/ Taylor E. Smith  
Taylor E. Smith, Esq.  
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Approved as to form only by:

LAW OFFICE OF JONLYN M. MARTINEZ, LLC

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